

SUMMARY OF ALLEGATIONS

1. This action concerns two interrelated fraudulent schemes perpetrated by six individuals and four entities involved in the securities lending industry, colloquially known as the "stock loan" business. From July 2000 through June 2006, D. DeMizio and Sherlock, two stock loan traders employed by Morgan Stanley & Co., Inc. ("Morgan Stanley"), and three other individuals, skimmed millions of dollars in stock lending profits from Morgan Stanley and a broker-dealer division of The PNC Financial Services Group Inc. ("PNC") through their illegal kickback schemes with Lupo, a stock loan "finder." Clinton, Lupo's finder firm, collected over \$4 million in improper finder fees as a result of these schemes, and Lupo paid over \$1 million in undisclosed kickbacks to some of the other defendants.

2. In the first scheme, D. DeMizio and Sherlock caused Morgan Stanley to enter into thousands of unnecessary loan transactions at inferior interest rates for the purpose of artificially generating finder fees for Lupo. In exchange, Lupo paid cash kickbacks directly to Sherlock in cash and paid a total of nearly \$600,000 to shell companies controlled by C. DeMizio, D. DeMizio's brother, and Tramontozzi, Sherlock's brother-in-law and a full-time pharmacist. The scheme was designed to circumvent Morgan Stanley's prohibition against payments to finders and to enrich the participants and their families at Morgan Stanley's expense.

3. Rather than seek a lender or borrower for Morgan Stanley stock loan orders at the best available rates -- which Morgan Stanley stock loan traders could have readily done given Morgan Stanley's market power -- D. DeMizio and Sherlock caused Morgan Stanley to run orders at inferior interest rates through an intermediary brokerage firm selected by Lupo that, unlike Morgan Stanley, allowed payments to finders. The sole purpose of the loans to these "run-through" firms was to generate a finder fee to Clinton. In these transactions, the rates at which

Sherlock and D. DeMizio caused Morgan Stanley to lend or borrow the stock were inferior to the rates that the ultimate borrower was paying to -- or the actual source was charging -- the run-through firm. Clinton's finder fee was paid out of the profit made by the run-through firm, which in turn came out of the profit that Morgan Stanley could have otherwise earned on the transaction.

4. In the second scheme, Miller, a finder and former stock loan trader at Morgan Stanley, paid undisclosed cash kickbacks to a stock loan trader at PNC in exchange for receiving PNC stock loan orders from the trader ("PNC Trader"). Lupo and others participated in and shared the profits from this scheme. From January 2002 to June 2004, Lupo and Miller split over \$1.2 million in finder fees generated by PNC orders. Miller used some of his portion of the fees to pay cash kickbacks to the PNC Trader. Miller ended his arrangement with Lupo in May 2003, but Miller continued the kickback scheme with the PNC trader on his own until January 2005.

5. By virtue of the foregoing conduct, each of the defendants, directly or indirectly, singly or in concert, violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]; and defendants C. DeMizio, CD Management, Tramontozzi and DFT are also liable in the alternative, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)], for aiding and abetting the violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] committed by defendants D. DeMizio, Sherlock, Lupo, and Clinton. Unless each of the defendants is permanently restrained and enjoined, they will again engage in the acts, practices,

transactions and courses of business set forth in this complaint and in acts, practices, transactions and courses of business of similar type and object.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to the authority conferred by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], and seeks to restrain and enjoin the defendants permanently from engaging in the acts, practices, transactions and courses of business alleged herein. The Commission also seeks a final judgment ordering the defendants to disgorge their ill-gotten gains and pay prejudgment interest thereon, and ordering the defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act, [15 U.S.C. § 78u(d)(3)].

7. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d) and 77v(a)] and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa]. The defendants, directly and indirectly, have made use of the means or instrumentalities of, or the means or instruments of transportation or communication in, interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the transactions, acts, practices and courses of business alleged herein. Some of these transactions, acts, practices and courses of business occurred in the Eastern District of New York, where many of the defendants reside or transact business.

THE DEFENDANTS

8. **D. DeMizio**, age 41, lived in Staten Island, New York during the relevant period and now resides in Westfield, New Jersey. D. DeMizio is a stock loan trader and registered

representative associated with Morgan Stanley, where he supervises stock loan trading activities. He has been employed with Morgan Stanley since 1991. On July 17, 2007, D. DeMizio was placed on administrative leave. He was previously employed as a stock loan finder for a company operated by his father, Robert DeMizio.

9. **Sherlock**, age 36, resides in East Norwich, New York. From October 1994 to June 2007, Sherlock was a stock loan trader and registered representative associated with Morgan Stanley.

10. **Lupo**, age 62, resides in Freehold, New Jersey. During the relevant period, he purported to perform stock loan finding services through Clinton, which he formed in or about 1996. Lupo also purportedly provides tax preparation services to a limited number of individual clients.

11. **Clinton** is a New York corporation with a business address in Brooklyn, New York. Clinton is owned and controlled by Lupo.

12. **C. DeMizio**, age 42, resides in Colts Neck, New Jersey. He is D. DeMizio's brother. From April 2004 through August 2007, C. DeMizio was a stock loan trader at Swiss American Securities, Inc. ("SASI"). C. DeMizio previously purported to perform stock loan finder services through CD Management, which he formed in or about July 1997.

13. **CD Management** is a New York corporation owned and controlled by C. DeMizio. Its business address in Staten Island, New York was the same address as C. DeMizio's residence during the relevant period.

14. **Tramontozzi**, age 38, resides in Glen Head, New York. He is employed full-time as a pharmacist and is Sherlock's brother-in-law. Tramontozzi formed DFT in or about July 2004.

15. **DFT** is a New York corporation with a business address in Brooklyn, New York. DFT is owned and controlled by Tramontozzi.

16. **Miller**, age 34, resides in Brooklyn, New York. From December 1996 to January 2002, he was a stock loan trader at Morgan Stanley. In or about January 2002, Miller formed Cobblehill as a purported finder business.

17. **Cobblehill** is a New York corporation with a business address in Brooklyn, New York. Cobblehill is owned and controlled by Miller.

RELEVANT ENTITIES

18. **Morgan Stanley** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

19. **PNC** is registered with the Commission as a broker-dealer and maintains its principal place of business in Pittsburgh, Pennsylvania.

20. **Paloma Securities, LLC** ("Paloma") is registered with the Commission as a broker-dealer and maintains its principal place of business in Greenwich, Connecticut.

21. **Janney Montgomery Scott, LLC** ("Janney") is registered with the Commission as a broker-dealer and maintains its principal place of business in Philadelphia, Pennsylvania.

22. **First Albany Capital Inc.** ("First Albany") is registered with the Commission as a broker-dealer and maintains its principal place of business in Albany, New York. First Albany closed its stock loan trading department in or about January 2003.

23. **Van der Moolen Specialists USA, LLC** ("VDM") is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York. VDM closed its stock loan department in or about February 2005.

24. **Fortis Securities LLC** (“Fortis”) is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

25. **SASI** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

26. **Freeman Securities Company** (“Freeman”) was, until late 2001, registered with the Commission as a broker-dealer and maintained its principal place of business in Jersey City, New Jersey. In 2001, Freeman changed its name to Native Nations Securities, Inc. and ceased all business operations later that year.

THE SECURITIES LENDING BUSINESS

Typical Stock Loan Transactions

27. A securities loan is a collateralized, temporary exchange of securities. The collateral is usually cash or other securities. Generally, broker-dealers borrow securities to cover short sales and lend securities to gain short-term access to cash. If the security is liquid (*i.e.* readily available and thus called “easy-to-borrow”), the broker-dealer borrowing the security also receives interest for the duration of the loan on the cash collateral it makes available to the lender. The interest payment is called a “rebate.” If the security is in limited supply (*i.e.* “hard-to-borrow”), the borrower generally pays interest to the lender for the right to borrow the security. This interest payment is called a “negative rebate.” The rebates and negative rebates are a percentage of the total market value of the securities and are quoted as annual percentage rates. Stock loan transactions may stay open for as little as one trading day or as long as several months or even a year.

Roles Of Securities Lending Firms

28. There are generally three types of securities lending firms, referred to in the industry as “retail” firms, “prime broker” firms and “conduit” firms. The retail firms, which have a large retail customer base, are primarily in the securities lending business to lend securities from their inventory, or “box,” to gain short-term access to cash for financing needs. By lending easy-to-borrow securities from their box, retail firms can obtain cash at a more favorable interest rate (*i.e.* the rebate) than they could obtain from a bank or similar lending institution. When retail firms lend hard-to-borrow securities at negative rebates, they make a profit from the interest they receive. Prime broker firms typically have large institutional and hedge-fund clients, and they often need to borrow significant blocks of securities to cover their customers’ short sales. Accordingly, prime broker firms generally have the greatest demand for securities. They also sometimes function the same way that retail firms do when they lend securities being held by clients that have long positions. Conduit firms typically borrow securities, generally from retail firms, and then immediately re-lend them, generally to prime broker firms. Conduit firms seek to negotiate a small spread between the rate they pay to the initial lender and the rate they receive from the ultimate borrower. The conduit firms profit on the spread between the rates.

29. Conduit transactions of this type are not necessarily fraudulent or illegal, as there are legitimate business reasons for a borrower or lender to use a conduit firm as an intermediary. For example, two firms seeking to enter into a stock loan transaction directly may be temporarily unable to do so because one or both have exceeded their respective credit limits. Some firms may also use a conduit firm as an intermediary to maintain a certain degree of anonymity in the marketplace. However, the conduit transactions at issue in this action were arranged not for

legitimate business reasons, but to generate improper payments to Lupo, which Lupo then shared with the other defendants.

Role And Compensation Of Finders

30. During the relevant period, most retail firms and prime broker firms, such as Morgan Stanley, had policies prohibiting payments to finders. PNC prohibited its stock loan traders from even communicating with finders. Many of the conduit firms, such as Paloma, First Albany, Janney and VDM, did not prohibit payments to finders and were the primary source of compensation for finders. The finder's fee would typically be negotiated by the lender and borrower as part of the terms of the loan and, like the rebate rate, expressed in basis points as a percentage of the total market value of the stock.

31. Although the rebate rates and corresponding finder fees on any particular stock loan transaction may not be large, traders generally engage in dozens, if not hundreds, of stock loan transactions each day. The rebates and finder fees are calculated and paid on a daily basis, and the brokerage firms and finders continue to receive payments until the borrowed stock is returned or recalled. Accordingly, those loans that remain open for extended periods generate substantial profits for both brokerage firms and finders even if the rates and spreads are small.

32. In the past, traders typically employed the services of finders to locate hard-to-borrow stock. In today's securities market, however, traders rarely need the services of finders. Technological advances and other improvements have made it easier and faster for traders to locate hard-to-borrow securities on their own. On April 29, 2005, the New York Stock Exchange issued an advisory opinion cautioning all member firms about continuing to do business with finders and stating as follows: "We have seen only limited instances where a finder is actually providing services that an effective stock loan department could not provide."

THE DEFENDANTS' FRAUDULENT SCHEMES

33. Each of the defendants played a role in one or more kickback schemes stemming from their relationship with Lupo. Although the details differed, the purpose of each scheme was to enrich the defendants at the expense of Morgan Stanley or PNC. The activities of the two purported finders -- Lupo and Miller -- were aimed entirely at generating fraudulent profits for themselves and the other defendants. As a result of the schemes, Morgan Stanley and PNC were defrauded out of millions of dollars that they would have otherwise received or retained.

Lupo's Scheme With D. DeMizio, Sherlock And Their Relatives

34. From approximately 1998 or 1999 to June 2006, D. DeMizio and Sherlock defrauded their employer, Morgan Stanley, through an elaborate finder fee and kickback arrangement with Lupo and others.

35. Morgan Stanley is one of the largest prime brokerage firms in the industry and has one of the largest securities lending desks. Because of Morgan Stanley's market power, its stock loan traders generally do not need to use finders or conduit firms to fill Morgan Stanley's stock loan orders, *i.e.* locate lenders or borrowers of whatever stocks Morgan Stanley needs to borrow or lend. Accordingly, Morgan Stanley rarely, if ever, used finders and expressly prohibited the payment of finder fees. The scheme with Lupo was designed to circumvent this prohibition and use Morgan Stanley's stock loan portfolio to enrich Lupo, D. DeMizio, Sherlock, and certain relatives of D. DeMizio and Sherlock, at Morgan Stanley's expense. The defendants conspired to artificially generate unnecessary finder fees on loan transactions originating with Morgan Stanley and then share those fees by means of kickback payments.

Origins Of The Scheme

36. Lupo has had a close personal relationship with the DeMizio family for many years. He has been friends with Robert DeMizio, D. DeMizio's and C. DeMizio's father, since the time Robert DeMizio and Lupo worked together at a finder firm in the 1970s. D. DeMizio introduced Lupo to Sherlock shortly after Sherlock began working at Morgan Stanley. D. DeMizio and Sherlock met at Morgan Stanley.

37. D. DeMizio originated the scheme to defraud Morgan Stanley. In 1998 or 1999, D. DeMizio offered to direct a large volume of Morgan Stanley stock loan orders at favorable rates to a stock loan trader at Freeman (the "Freeman Trader"). In exchange, D. DeMizio wanted the Freeman Trader to cause Freeman to pay sham finder fees to Lupo and C. DeMizio on those transactions. The Freeman Trader agreed to participate in the scheme. At the time, Freeman was a small conduit firm receiving a limited amount of stock loan business from Morgan Stanley, and D. DeMizio's scheme enabled the Freeman Trader to increase significantly Freeman's business with Morgan Stanley and overall profitability.

38. Sherlock became aware of D. DeMizio's scheme with the Freeman Trader and, approximately one year later, entered into a similar arrangement of his own with the Freeman Trader. Like D. DeMizio, Sherlock directed Morgan Stanley stock loan orders that he was responsible for handling to Freeman at favorable rates and, in exchange, the Freeman Trader caused Freeman to pay sham finder fees to Lupo on those transactions.

39. From 1998 or 1999 until 2001, D. DeMizio and Sherlock caused Morgan Stanley to lend securities to Freeman at rates that were favorable to Freeman and disadvantageous to Morgan Stanley. Freeman then loaned the securities to other brokerage firms at better rates and used the inflated profit to pay sham finder fees to Lupo via Clinton and, on the loans directed by

D. DeMizio, also to C. DeMizio via CD Management. Neither Lupo nor C. DeMizio, nor the firms they controlled, performed any services on these transactions. Lupo and C. DeMizio together received a total of over \$900,000 in sham finder fees from Freeman during this period. Freeman kept the balance of the risk-free profit generated by the spread between the rates. Lupo shared his portion of the sham finder fees he received from Freeman with Sherlock by paying Sherlock monthly cash kickbacks.

40. Freeman went out of business in the latter part of 2001. As a result, D. DeMizio, Sherlock, Lupo and C. DeMizio altered their kickback scheme. The newer incarnation of their scheme to defraud Morgan Stanley was more elaborate and extremely profitable. It involved multiple conduit firms, with the finder fees being paid to Clinton and Lupo who would then distribute portions of the fees to C. DeMizio, Sherlock and, later in the scheme, to Tramontozzi. These fraudulent loan transactions were structured and carried out as follows.

The Fraudulent Loan Transactions

41. Each morning, Morgan Stanley's stock loan desk received a list of stocks that Morgan Stanley and other brokerage firms needed to lend or borrow that day, known in the industry as "push" and "needs" lists. Morgan Stanley's push and needs lists came to the stock loan desk from a variety of sources within Morgan Stanley. Other firms also provided their push and needs lists to Morgan Stanley because, due to its size and business strategies, Morgan Stanley was known to be a high-volume borrower and lender of stocks. Morgan Stanley expected its traders to use, among other things, Morgan Stanley's market power and the information on both the internal and external lists to negotiate loan transactions that benefited Morgan Stanley. For example, if Morgan Stanley had stock that it wished to lend, a Morgan Stanley stock loan trader could, among other things, search the other firms' needs lists for the

stock or contact his counterparts at other prime brokerage or other firms to find out if they needed to borrow the stock.

42. Instead of taking the steps described above and seeking the best available rate for Morgan Stanley, Sherlock regularly provided Morgan Stanley's daily push and needs lists to Lupo. Sherlock and Lupo then worked together to arrange unnecessary multi-step transactions for the stocks on those lists at rates that were designed to generate a hefty finders fee for Clinton rather than maximize the benefit to Morgan Stanley. D. DeMizio also provided Lupo with similar proprietary information about Morgan Stanley's daily stock loan orders for the same purpose.

43. To effectuate the scheme, the loan transactions orchestrated by D. DeMizio, Sherlock and Lupo were structured to overcome the following hurdles:

(a) First, because Morgan Stanley prohibited payments to finders, the transaction had to involve a firm that was authorized to pay a finder fee and would in fact pay Clinton. Lupo therefore arranged for one of three firms that, like Freeman, paid finders and with whom Clinton had a relationship to act as an intermediary, or "run through," on the transaction: First Albany, Paloma and Janney (the "Run-Through Firms").

(b) Second, the transaction also had to involve a firm that had sufficient credit to be able to engage in frequent stock loan transactions directly with Morgan Stanley. Because the Run-Through Firms generally lacked the necessary credit to deal directly with Morgan Stanley, Lupo and Sherlock often arranged for another firm that had sufficient credit with Morgan Stanley, most often SASI, to serve as an intermediary between the Run-Through Firm and Morgan Stanley. For example, if Morgan Stanley needed to lend a stock, SASI would borrow the shares from Morgan Stanley and then re-lend the shares to one of the Run-Through Firms.

The Run-Through Firm would then locate and lend the shares to a brokerage firm that needed the stock to cover a short-sale or for some other legitimate purpose, and the Run-Through Firm would pay Clinton a finder fee out of the net proceeds of that loan. If Morgan Stanley needed to borrow a stock, then the process worked in reverse.

(c) Third, Lupo and Sherlock had to ensure that the Run-Through Firm made a large enough profit on the last leg of the transaction to enable it to pay Clinton a significant finder fee. Accordingly, the intermediate loans -- in the foregoing example, from Morgan Stanley to SASI and from SASI to the Run-Through Firm -- were generally done at interest rates that were inferior to, and often well below, the rate that the end-user paid to the Run-Through Firm. Each component of the transaction occurred on the same day.

44. Morgan Stanley suffered harm as a result of these transactions. Like Freeman before them, the Run-Through Firms, as well as the other intermediary firms, were each guaranteed a risk-free profit on their loans, because D. DeMizio and Sherlock acted contrary to Morgan Stanley's best interests. D. DeMizio and Sherlock caused Morgan Stanley to loan or borrow the stock at inferior interest rates for the purpose of creating a sufficient spread between the two end-points of the multi-step transaction to enable Clinton to be paid a finder fee and still leave some profit for the Run-Through Firm and other intermediary firm. The Run-Through Firms would not have participated had there not been a sufficient spread in their favor for them to make at least a small risk-free profit. In the example described above in paragraph 43(b), Morgan Stanley could have loaned the stock directly to the end-user firm at the same rate that the Run-Through did, or perhaps an even better rate given Morgan Stanley's market power, rather than incur the costs of running the transaction through the Run-Through Firm. D. DeMizio and

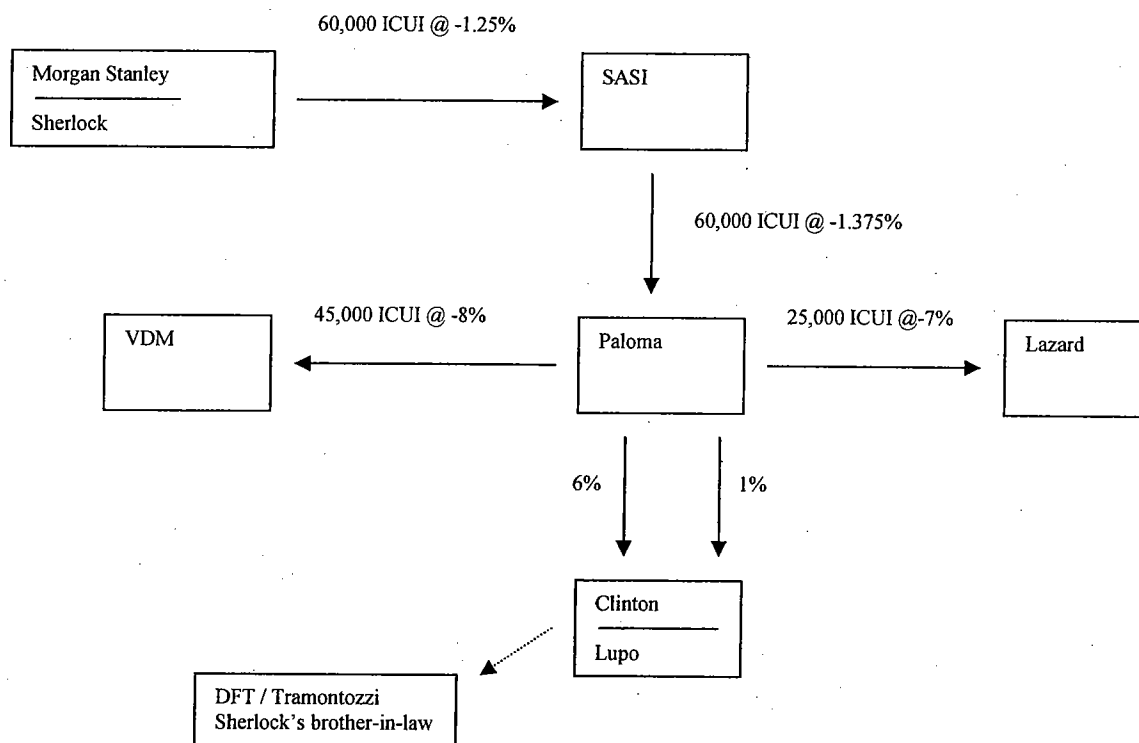
Sherlock knew that Morgan Stanley had virtually unlimited access to the securities lending markets and rarely needed the assistance of finders or conduit firms to locate or place securities.

45. D. DeMizio and Sherlock did not relinquish control of the transaction once the stock left Morgan Stanley or leave it to Lupo or the Run-Through Firm to negotiate the run-through rates with the other intermediary firm on their own. Instead, D. DeMizio and Sherlock effectively dictated the loan rates on the transactions between SASI and the Run-Through Firms, and they did so for the sole purpose of ensuring the payment of a fee to Clinton. For example, Sherlock informed a stock loan trader at SASI on one or more occasions that if the spread in the rates on a given transaction was not large enough to accommodate Clinton's fee, Sherlock would not allow Morgan Stanley to participate.

46. After Freeman's demise, Lupo ran all the Morgan Stanley orders he received from D. DeMizio and Sherlock through one of the Run-Through Firms, and Clinton received a finder fee from one of the Run-Through Firms on thousands of Morgan Stanley stock loan transactions during the relevant period. The following transaction illustrates the extent of the harm suffered by Morgan Stanley when D. DeMizio and Sherlock caused Morgan Stanley to lend or borrow the securities involved in these transactions at rates that were inferior to what the Run-Through Firms were receiving, and that D. DeMizio's and Sherlock's purpose in running Morgan Stanley's stock loan transactions through Lupo and the Run-Through Firms was to generate an inflated profit for those firms that would then be diverted to Lupo in the form of a finder fee.

47. On October 22, 2004, Morgan Stanley loaned 60,000 shares of ICU Medical, Inc. (ICUI) stock to SASI at a negative rebate of 1.25% (*i.e.* SASI paid Morgan Stanley an interest rate of 1.25%). SASI then loaned the stock to Paloma at a slightly higher negative rebate of 1.375% (*i.e.* Paloma paid SASI an interest rate of 1.375%). Paloma, however, loaned 45,000 of

the ICUI shares to VDM at a much higher negative rebate of 8% -- more than six times what Morgan Stanley received -- and paid Clinton a finder fee of 6% -- nearly five times what Morgan Stanley received -- out of Paloma's hefty 6.625% profit. This loan was open for four days, and Clinton's fee came to \$690. By contrast, Morgan Stanley's interest payments totaled only \$192. Paloma bundled the remaining 15,000 ICUI shares with an additional 10,000 from another source and loaned those 25,000 shares to Lazard Freres, also on October 22, at a negative rebate of 7%. Paloma paid Clinton only a 1% fee for this portion of the transaction. The following chart illustrates each step of this transaction:



48. In the foregoing example, Morgan Stanley could have loaned its 60,000 shares of ICUI directly to VDM and Lazard at the much higher rates that Paloma received. Instead, Sherlock directed the order to Lupo, who then arranged the transactions with SASI and between SASI and Paloma because Paloma had agreed to pay a hefty finder fee to Clinton -- which was

controlled by Lupo -- and because Lupo, pursuant to the scheme, had agreed to pay kickbacks to Sherlock and D. DeMizio by, in this instance, sharing Clinton's finder fees with Sherlock's brother-in-law, Tramontozzi.

The Kickback Payments

49. The kickback payments made by Lupo took different forms and benefited D. DeMizio and Sherlock in different ways. At times, Lupo paid kickbacks directly to Sherlock by giving him cash. For example, Sherlock received cash from Lupo at Lupo's office on multiple occasions, and Sherlock made serial monthly cash deposits into his bank account ranging from a few hundred dollars to several thousand dollars. In order not to arouse suspicion at the bank, each cash deposit was less than \$10,000. From October 2000 to December 2006, Sherlock made 85 separate cash deposits totaling approximately \$293,000.

50. At other times, Lupo compensated D. DeMizio and Sherlock by making kickback payments to D. DeMizio's and Sherlock's relatives, C. DeMizio and Tramontozzi, mostly via the two shell companies that C. DeMizio and Tramontozzi controlled, CD Management and DFT. Neither C. DeMizio, D. DeMizio's brother, nor Tramontozzi, Sherlock's brother-in-law, performed any services of any kind in exchange for the payments they received from Clinton, and there was no legitimate business or other purpose for the payments. When he received these payments, C. DeMizio was a purported stock loan finder but did not perform any services with respect to the transactions at issue. Tramontozzi was and remains employed full-time as a pharmacist.

51. From November 2001 to December 2004, Lupo caused Clinton to pay a total of \$581,000 to CD Management and DFT. During the same period, Tramontozzi and C. DeMizio transferred large sums from the DFT and CD Management bank accounts to their personal bank

accounts, and then withdrew substantial amounts of the money in cash. The payments from Clinton to CD Management, C. DeMizio's company, stopped after January 2004, as C. DeMizio went to work as a stock loan trader at SASI that spring.

52. From November 2001 through January 2004, Clinton paid \$378,000 to CD Management. Clinton also paid \$23,000 directly to C. DeMizio during this period. C. DeMizio knew, at a minimum, that these payments were made pursuant to an arrangement D. DeMizio and Sherlock had with Lupo whereby D. DeMizio and Sherlock directed Morgan Stanley stock loan orders to Lupo for the purpose of generating a finder fee that Lupo would then share with C. DeMizio on their behalf.

53. During the same period in which Clinton made payments to CD Management, C. DeMizio transferred \$251,000 from the CD Management bank accounts to his personal bank account. During the same time period, he withdrew at least \$112,220 in cash from his personal bank account. During this period, CD Management also transferred \$29,350 to a company controlled by Robert DeMizio, C. DeMizio's and D. DeMizio's father.

54. After C. DeMizio joined SASI in April 2004, Sherlock recruited Tramontozzi to serve as the new repository for Lupo's kickbacks. Tramontozzi, a full-time pharmacist, formed DFT in or about July 2004. From August 2004 through December 2004 -- a mere five months -- Clinton paid DFT a total of \$203,000. Tramontozzi knew, at a minimum, that these payments were made pursuant to an arrangement that D. DeMizio and Sherlock had with Lupo whereby D. DeMizio and Sherlock directed Morgan Stanley stock loan orders to Lupo for the purpose of generating a finder fee that Lupo would then share with Tramontozzi on their behalf. During this period, Tramontozzi transferred a total of \$77,000 to his personal account and then withdrew a total of \$72,500 in cash from his personal account.

Nondisclosure And Misrepresentations To Morgan Stanley

55. Neither D. DeMizio nor Sherlock ever disclosed any of their dealings with Lupo described above to their supervisors or the relevant compliance personnel at Morgan Stanley. Neither D. DeMizio nor Sherlock ever disclosed that they were giving Lupo daily access to Morgan Stanley stock loan orders, that Lupo was paying them or their family members, or that they had an arrangement of any kind with Lupo. While Morgan Stanley stock loan traders were permitted to speak to finders if there was a legitimate business reason for doing so -- *i.e.* in the rare event they needed outside assistance in locating a hard-to-borrow stock -- Morgan Stanley has a strict policy prohibiting traders from retaining and paying finders or accepting payments from finders. Not only did D. DeMizio and Sherlock violate this policy, they falsely certified in written submissions required by Morgan Stanley's Code of Conduct that they had not received gifts or special favors of more than nominal value from any person in connection with their employment.

56. Lupo would not have received the access to the Morgan Stanley stock loan orders from D. DeMizio and Sherlock described above in the absence of their kickback arrangement.

Miller's Scheme With Lupo And The PNC Trader

57. Miller participated in a separate, but related, kickback scheme involving Lupo and the PNC Trader. This scheme was an extension of the Morgan Stanley scheme and operated in a similar fashion.

58. Upon leaving Morgan Stanley, Miller became a finder and paid undisclosed cash kickbacks to the PNC Trader in exchange for receiving PNC stock loan orders. Miller initially added Clinton on all the PNC orders as a purported finder and then, just as Lupo did with the Morgan Stanley orders, ran the loans through one of the Run-Through Firms that paid finder fees

to Clinton in connection with the Morgan Stanley scheme. Miller and Lupo split the finder fees that the Run-Through Firms paid to Clinton on these deals, and Miller paid part of his share to the PNC Trader in cash.

59. In the fall of 2001, when Miller decided he would leave Morgan Stanley, he and Lupo agreed that Miller would become a finder and use his relationship with the PNC Trader to generate finder fees for himself and Lupo. Miller had developed a relationship with the PNC Trader while servicing the PNC account at Morgan Stanley. As part of his scheme with Lupo, Miller formed Cobblehill, his finder business, and solicited the PNC Trader's involvement in the scheme. The PNC Trader agreed to make PNC stock loan orders available to Miller in exchange for cash payments. The scheme was hatched while Miller was still at Morgan Stanley.

60. Miller resigned from Morgan Stanley in January 2002. He thereafter called the PNC Trader on a regular, if not daily, basis and obtained from the PNC Trader a list of the securities -- usually "hard-to-borrow" stocks -- that PNC had available to lend that day. Miller then relayed the list to Lupo, who arranged for one of the Run-Through Firms to borrow the securities being loaned by PNC and then re-lend them to an end-user firm. As with the Morgan Stanley scheme, Lupo and Miller first had to arrange for another intermediary firm with the requisite credit to borrow the securities directly from PNC and then re-lend them to one of the Run-Through Firms that could pay a fee to Clinton. Lupo caused Clinton to pay half of the finder fees it received on these transactions to Cobblehill, and Lupo kept the other half.

61. In or about May 2003, Miller ended his arrangement with Lupo, although Miller continued to receive payments from Lupo until approximately June 2004 because some of the earlier PNC loan transactions still remained open. Miller subsequently registered Cobblehill as a finder with the stock loan trading desks of at least two broker-dealer firms, VDM and Fortis.

Miller continued his kickback arrangement with the PNC Trader until approximately January 2005. Pursuant to their scheme, the PNC Trader caused PNC to lend stock directly to Fortis and, via a run-through firm, to VDM in exchange for kickbacks from Miller, which he paid out of the finder fees that Cobblehill received from VDM and Fortis. From approximately January 2002 to January 2005, Miller traveled from New York to Philadelphia several times a year to pay cash kickbacks to the PNC Trader ranging from a few hundred dollars to several thousand dollars at a time.

62. Miller received a total of approximately \$700,000 as a result of his kickback scheme with the PNC Trader. From January 2002 through June 2004, Clinton paid Miller, through Cobblehill, a total of over \$600,000. From June 2003 to February 2005, VDM and Fortis paid Cobblehill a total of approximately \$100,000 in improper finder fees in connection with PNC stock loan transactions.

63. Miller would not have received access to PNC stock loan orders from the PNC Trader in the absence of their kickback arrangement.

64. The PNC Trader never disclosed to PNC anything about the dealings with Miller described above. The PNC Trader did not disclose to PNC that the PNC Trader was giving Miller regular access to PNC stock loan orders, that Miller was making payments to the PNC Trader, or that the PNC Trader had an arrangement of any kind with Miller. The PNC Trader's arrangement with Miller violated, among other things, PNC's policy prohibiting PNC stock loan traders from communicating with Finders. In March 2002, the PNC Trader signed an internal compliance form representing that the PNC Trader would adhere to this policy.

Total Payments To Lupo And Clinton

65. Through Clinton, Lupo received over \$4 million in improper finder fees as a result of his kickback schemes with D. DeMizio, Sherlock and Miller. As alleged above, each transaction on which Clinton was paid a finder fee was passed through one of the Run-Through Firms, because those were the firms that allowed finder fees to be paid to Clinton during the relevant period. From August 2001 through January 2003, First Albany paid Clinton a total of approximately \$900,000. After First Albany closed its stock loan trading desk in January 2003, Lupo's contact at First Albany moved to Paloma. From April 2003 to June 2006, Paloma paid Clinton a total of approximately \$1.6 million. Lupo began also using Janney as a Run-Through Firm at the end of 2002. From December 2002 to January 2005, Janney paid Clinton approximately \$1.2 million. In January 2005, Lupo falsely certified in writing to Janney that Clinton was a genuine finder business and had provided stock loan finding services to Janney in December 2004 for which it was due payment. In addition, as alleged above, Lupo and C. DeMizio together received a total of over \$900,000 in improper finder fees from Freeman during the period preceding Freeman's demise.

CLAIM FOR RELIEF

Violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5

66. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 65.

67. The defendants directly or indirectly, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or by the use of the mails, or of the facilities of a national securities exchange, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly,

have: (a) employed devices, schemes and artifices to defraud; (b) obtained money or property by means of, or otherwise made, untrue statements of material fact, or have omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, transactions, practices and courses of business which operated or would have operated as a fraud or deceit upon purchasers of securities and upon other persons.

68. As part and in furtherance of the fraudulent schemes and other violative conduct described above, each of the defendants, directly or indirectly, singly or in concert, employed the deceptive devices, schemes, artifices, contrivances, acts, transactions, practices and courses of business and/or made the misrepresentations and/or omitted to state the facts alleged above in paragraphs 1-4 and 33-65.

69. The false and misleading statements and omissions made by defendants D. DeMizio and Sherlock, more fully described above in paragraphs 1-4 and 33-65, were material.

70. Defendants D. DeMizio and Sherlock knew, or were reckless in not knowing, that these material misrepresentations and omissions, more fully described above in paragraphs 1-4 and 33-65, were false or misleading, and all the defendants otherwise acted with the requisite scienter by knowingly or recklessly engaging in one or more of the fraudulent schemes described above in paragraphs 1-4 and 33-65.

71. By reason of the acts, statements, omissions, practices, and courses of business alleged herein, the defendants, singly or in concert, directly or indirectly, have violated, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

72. By reason of the foregoing and pursuant to Section 20(e) of the Exchange Act, defendants C. DeMizio, CD Management, Tramontozzi and DFT, singly or in concert, directly or indirectly, also aided and abetted the violations committed by those defendants with whom they schemed to defraud by knowingly providing substantial assistance to such other defendants' violations of, and unless enjoined will again aid and abet violations of, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

I.

Permanently enjoining and restraining each of the defendants, their agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

II.

Ordering each of the defendants to disgorge the ill-gotten gains they received from the violations alleged herein, and to pay prejudgment interest thereon.

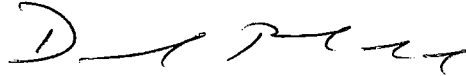
III.

Ordering each of the defendants to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

IV.

Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 20, 2007



David Rosenfeld (DR-8646)
Associate Regional Director
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
3 World Financial Center, Suite 400
New York, New York 10281
(212) 336-0153

Of Counsel:

George N. Stepaniuk
Joseph P. Dever, Jr.
Burk Burnett
Kenneth V. Byrne
Karen M. Lee